

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 1999-293

June 2, 1999

ENERGY OPTIONS CONSULTING GROUP, LLC
Application for License to Operate as a
Competitive Electricity Provider

ORDER GRANTING LICENSE

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we license Energy Options Consulting Group, LLC to operate as a competitive electricity provider furnishing aggregator/broker services in Maine pursuant to Chapter 305 of the Commission's Rules.

II. APPLICATION

On May 4, 1999, Energy Options Consulting Group, LLC applied to the Commission for a license to operate in Maine as a competitive electricity provider, as provided in Chapter 305.

A. Application Sufficient

The Administrative Director determined that Energy Options Consulting Group, LLC's application was complete and sufficient to meet the filing requirements of Chapter 305, and docketed the application in this proceeding on May 4, 1999.

B. Type of Service Proposed

Energy Options Consulting Group, LLC proposes to act as an aggregator or broker for electric service provided to the public at retail. Energy Options Consulting Group, LLC's application states that the proposed licensee plans to offer "advisory, information, and consultative services to all classes of customers regarding deregulation of energy markets, opportunities for sourcing energy requirements, aggregation, supply acquisition and efficiency services . . . to customers in any service territory in Maine."

C. Fee Paid

With its application, Energy Options Consulting Group, LLC paid a \$100 fee to the Commission, as required by section 2(C)(5) of Chapter 305.

III. FINANCIAL ISSUES

A. Security

Energy Options Consulting Group, LLC will operate as an electricity broker/aggregator in Maine. Pursuant to section 2(B)(1)(a)(i) of Chapter 305, Energy Options Consulting Group, LLC does not have to furnish a security instrument to the Commission.

B. Showing of Professional and Financial Capability

Energy Options Consulting Group, LLC will operate as an electricity broker/aggregator in Maine, and accordingly is required to demonstrate its professional responsibility pursuant to section 2(B)(1)(b) of Chapter 305. Energy Options Consulting Group, LLC filed supporting information to demonstrate its professional responsibility. We have reviewed that information and find that it complies with the requirements of Chapter 305. Energy Options Consulting Group, LLC stated that it will not hold retail customer funds, and accordingly is not required to demonstrate its financial capability pursuant to section 2(B)(1)(b) of Chapter 305. In the event Energy Options Consulting Group, LLC wishes to hold customer funds in the future, it must first obtain authority from the Commission.

IV. TECHNICAL ISSUES

A. Showing of Technical Capability

Energy Options Consulting Group, LLC will operate as an electricity broker/aggregator in Maine, and accordingly is required to demonstrate its technical fitness to conduct its proposed business pursuant to section 2(B)(2)(c) of Chapter 305. Energy Options Consulting Group, LLC filed supporting information to demonstrate its technical capability. We have reviewed that information and find that it complies with the requirements of Chapter 305.

B. Renewable Resource Portfolio

Energy Options Consulting Group, LLC will operate as an electricity broker/aggregator in Maine. Pursuant to section 2(B)(4) of Chapter 305, Energy Options Consulting Group, LLC is not required to demonstrate an ability to meet the renewable resource portfolio requirement of 35-A M.R.S.A. § 3210 and the portfolio requirement reporting rules in Chapter 311 of the Commission's rules.

V. CONSUMER PROTECTION ISSUES

A. Showing of Fitness

In its application, Energy Options Consulting Group, LLC provided information required by Chapter 305 section 2(B)(3) related to enforcement proceedings and customer complaints. We have reviewed that information and find that it meets the requirements of Chapter 305.

B. Ability to Comply with Consumer Protection Rules

Energy Options Consulting Group, LLC provided information demonstrating its ability to comply with the applicable consumer protection requirements of Chapter 305 and other consumer protection requirements pursuant to 35-A M.R.S.A. Chapter 32 and other relevant provisions of Maine law. We have reviewed that information and find that it meets the requirements of Chapter 305.

C. Do-Not-Call List

Chapter 305 section 4(I) states that “[t]he Commission will maintain or cause to be maintained a ‘Do-Not-Call’ list of customers who have requested -- orally, in writing, or by commercially accepted electronic means -- that they not receive telemarketing calls from competitive electricity providers.” We require that licensees use do-not-call list mechanisms already in place nationally to satisfy that requirement. To the extent that it telemarkets to Maine consumers, Energy Options Consulting Group, LLC shall comply with the following requirements.

Energy Options Consulting Group, LLC must comply with the requirements of the Telephone Consumer Protection Act,¹ the Telemarketing and Consumer Fraud and Abuse Prevention Act,² and related rules of the Federal Communications Commission³ and Federal Trade Commission.⁴ Energy Options Consulting Group, LLC must comply with those requirements and must maintain its own do-not-call list as required by those laws and rules, for all intrastate and interstate telemarketing of Maine consumers, including both residential and business customers. Energy Options Consulting Group, LLC shall not telemarket to Maine customers on that

¹47 U.S.C. § 227

²15 U.S.C. §§ 6101-6108

³47 CFR 64.1200

⁴FTC Telemarketing Sales Rule, 16 CFR Part 310

list, as required in Chapter 305 section 4(I)(1). Energy Options Consulting Group, LLC shall update its do-not-call list at least monthly, and maintain copies of that list for at least six months. Energy Options Consulting Group, LLC shall provide a copy of that list to the Commission upon request.

Further, each month, Energy Options Consulting Group, LLC must obtain listings of Maine consumers who have arranged to be included on the do-not-call list maintained by the Telephone Preference Service of the Direct Marketing Association, Inc.⁵ Energy Options Consulting Group, LLC shall not telemarket to Maine customers on that list, as required in Chapter 305 section 4(I)(1).

VI. ADDITIONAL PROVISIONS

Energy Options Consulting Group, LLC must comply with all applicable requirements and limitations in Chapter 305 not explicitly waived in this Order. Energy Options Consulting Group, LLC must also comply with all requirements and limitations in other applicable Commission rules, including any applicable future changes in Maine laws and Commission rules, and in other parts of this Order.

VII. ORDERING PARAGRAPHS

Accordingly, we

O R D E R

1. license Energy Options Consulting Group, LLC to operate as a competitive electricity provider in Maine; under this license, Energy Options Consulting Group, LLC may operate only as an aggregator/broker, as defined in Chapter 305 of the Commission's Rules;
2. order that Energy Options Consulting Group, LLC may not hold retail customer funds;
3. order Energy Options Consulting Group, LLC to comply with all Do-Not-Call List requirements contained in Part V(C) of this Order to the extent that it telemarkets to Maine consumers; and

4. order that this license is effective on the date of this Order and valid until revoked by the Commission pursuant to section 3(A)(4) of Chapter 305, or abandoned by the licensee pursuant to sections 2(C)(9) and 2(C)(11) of Chapter 305 of the Commission's Rules.

Dated at Augusta, Maine, this 2nd day of June, 1999.

BY ORDER OF THE COMMISSION

Raymond J. Robichaud
Assistant Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

⁵Telephone Preference Service, Direct Marketing Association, Inc., P.O. Box 9014, Farmingdale, NY 11735-9014

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.